

JAMES SWEENEY	§	
VS.	§	CIVIL ACTION NO. 1:09-CV-1020
JOHN B. FOX	§	

Plaintiff James Sweeney, a prisoner confined at the United States Penitentiary in Beaumont, Texas, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).¹

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

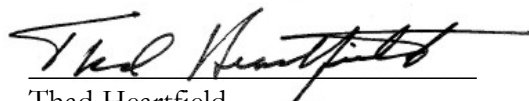
¹ This case was filed as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The magistrate judge recommended dismissing the petition without prejudice to petitioner's ability to refile the case as a civil rights action. Petitioner objected, and indicated that he wished to pursue the civil rights claims. As a result, the petition has been construed as a *Bivens* action.

objections are without merit. Plaintiff mistakenly believes the report recommends dismissal of cause number 1:10-CV-773, a civil rights action he filed on December 1, 2010. The claims raised in this action are not cognizable under Section 2241 because they concern the conditions of his confinement. The civil rights claims are frivolous and fail to state a claim because plaintiff does not have a protected liberty interest in being assigned to a particular housing unit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in accordance with the magistrate judge's recommendation.

SIGNED this the **7** day of **January, 2011**.



Thad Heartfield
United States District Judge